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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 19, 2005

Mr. Keith A. Klein, Manager
Richland Operations Office
United States Department of Energy
P. O. Box 550, MSIN: A7-50
Richland, Washington. 99352

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EDMC

Mr. Ronald G. Gallagher
President and Chief Executive Officer
Fluor Hanford, Incorporated
P.O. Box 1000, MSIN: H5-20
Richland, Washington 99352

Dear: Messrs. Klein and Gallagher:

Re: Inspection of M-91-40 December 31, 2004 Deliverable

Thank you for the assistance of United States Department of Energy (USDOE) and Fluor Hanford Incorporated (FH) personnel during the Washington State Department of Ecology's (Ecology) February 23, 2005, inspection of M-91-40 December 31, 2004, deliverable for waste retrieval in the Low Level Burial Grounds (LLBG). This inspection focused on review of hazardous waste designation for retrievably stored waste (RSW) used to count toward the M-91-40 deliverable of 1200 cubic meters, by December 31, 2004.

The facilities inspected included the M-91 retrieval operations in the LLBG and the Central Waste Complex (CWC). Ecology's inspection revealed no violations. However, Ecology's inspection reached the following four concerns:

1. Negotiations for the M-91 settlement agreement assumed that contact handled low-level waste (LLW) removed from the burial grounds would designate 80% LLW and 20% mixed low-level waste (MLLW). During this inspection, it was observed that all low-level waste retrieved and shipped to the CWC was considered MLLW. Designation (and treatment) of all low-level waste retrieved as MLLW, would significantly impact the requirements for the M-91-42 milestone regarding treatment of contact handled waste currently in storage, and being retrieved.

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2. Some RSW waste streams are not currently being confirmed by visual examination for the Waste Isolation Pilot Plant certification. Therefore, the feedback loop, as established in the M-91-00 milestone, to confirm adequate designation of these waste streams is not being conducted in a timely manner.
3. Ecology is concerned that the increased volume of MLLW being generated as described in Concern #1 above and delays in waste confirmation as described in Concern #2 above will delay treatment, result in filling up the limited storage space in the CWC, and increase the difficulty for the USDOE to meet the M-91-42 milestone to treat all existing and newly generated contact-handled waste by December 31, 2009.
4. In Section 7.2.2 of *The Data Quality Objectives Summary Report for Disposition of the Low-Level Waste Fraction of Retrievably Stored Waste* (HNF-20770), a 10% decision error is allowed for confirmation of waste stream contents. For example, up to 10% of a waste stream may contain prohibited items without requiring further waste stream examinations or adjustments to waste stream designation/characterization. The 10% allowable decision error is not a statistically derived, i.e. this number does not represent a statistical 90% confidence factor, rather it appears to be an arbitrarily selected value. Use of this decision error to confirm waste container contents could result in allowing an excessive number of waste containers to be processed or disposed without accurate waste designation or characterization or removal of prohibited items.

To address these concerns, Ecology advises that:

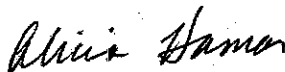
1. The USDOE re-evaluate the treatment schedule deliverables outlined in letters A-F of M-91-42 milestone and propose new values to ensure that all MLLW in the CWC, RSW, and waste newly generated through December 2008 are treated to meet land disposal restriction requirements by December 31, 2009, through the Tri-Party Agreement change process.
2. Ecology be directly involved in the development of future attachments to *The Data Quality Objectives Summary Report for Disposition of Low-Level Waste Fraction of Retrievably Stored Waste* (HNF-20770) and subsequent sampling and analysis plans (SAPs).

Concerns are not considered violations. However, if left unaddressed, concerns can evolve into violations. Therefore, Ecology considers this inspection closed.

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If you have any questions regarding this letter, please contact me at (509) 372-7904.

Sincerely,



Alicia Hamar
Environmental Specialist
Nuclear Waste Program

AH:nc

cc: Dave Einan, EPA
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Russell Jim, YN
Todd Martin, HAB
Ken Niles, ODOE
Administrative Record, (M-91 milestone)
Environmental Portal